

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

OSVALDO DELAHOZ,

Defendant.

No. 15-cr-485 (RJS)
ORDER

RICHARD J. SULLIVAN, Circuit Judge:

Before the Court is defendant Osvaldo Delahoz's motion to file a late notice of appeal, which the government does not oppose. (*See* Doc. No. 123.) Under Federal Rule of Appellate Procedure 4(b)(1)(A)(i), a defendant's notice of appeal must be filed within fourteen days of the entry of the judgment being appealed. However, “[u]pon a finding of excusable neglect or good cause, [a] district court may . . . extend the time to file a notice of appeal for a period not to exceed [thirty] days from the expiration of the time otherwise prescribed by this Rule 4(b).” Fed. R. App. P. 4(b)(4). The Court finds that Delahoz's failure to timely file his notice of appeal resulted from “excusable neglect,” namely issues with the prison mail system, which prevented Delahoz from receiving the necessary paperwork from his attorney (*see* Doc. No. 123 at 4–6). *See United States v. Lopez*, No. 09-cr-525 (JFK), 2012 WL 569184, at *2 (S.D.N.Y. Feb. 22, 2012). The Court further notes that Delahoz's motion is within thirty days of the original deadline to file a notice of appeal, which was January 1, 2025. (*See* Doc. No. 123 at 4.)

IT IS HEREBY ORDERED THAT Delahoz's motion to file a late notice of appeal is GRANTED. Delahoz shall file his notice of appeal by January 31, 2025. The Clerk of Court is respectfully directed to terminate the motion pending at Doc. No. 123.

SO ORDERED.

Dated: January 21, 2025
New York, New York



RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation